

REQUEST FOR RECONSIDERATION

Applicants thank Examiner Zalukaeva for the helpful and courteous comments by telephone on September 21, 2004.

Amended independent Claim 1 is drawn to a crosslinked rubber particle which contains polymerized monomer units of the monomers (a), (b), (c) and (d) recited in the claim. The claimed crosslinked rubber particle must have 40% or more by weight of a conjugated diene unit and 50% or less by weight of an aromatic vinyl unit.

In the Office Action of July 2, 2004, the Office rejected Claims 1-4, 6 and 8 as obvious in view of a combination of patents to Takashima (U.S. 6,458,883) and Yamada (U.S. 4,368,237). Applicants note that the Takashima patent may qualify as prior art to the present application under 35 U.S.C. § 102(e). Takashima was filed on January 11, 2000 (U.S. Application No. 09/480,793) and issued on October 1, 2002. The present application is a Continuation Application of U.S. Application No. 09/842,162 filed on April 26, 2001.

The present application and the Takashima patent (U.S. 6,458,883) were, at the time the invention of the present application was made, owned by JSR Corporation.

The above statement is sufficient to evidence common ownership of the present application and the Takashima reference cited as prior art by the Office. Applicants have thereby disqualified Takashima as prior art under 35 U.S.C. § 103(c) (see M.P.E.P. § 706.02(I)).

Therefore, the subject matter of original Claims 2 and 4 is patentable over the Takashima patent. Claims 2 and 4 are rewritten herein as independent claims.

The Office further rejected Claims 1, 3, 5 and 7 as anticipated by or obvious in view of patents to Ito (U.S. 6,210,869) and Hashimoto (U.S. 6,316,172).

Applicants submit that a crosslinked rubber particle having 40% or more by weight of a conjugated diene unit and 50% by weight or less of an aromatic vinyl unit is not anticipated

by or rendered obvious by the styrene/butadiene/hydroxyethylmethacrylate/divinylbenzene of Ito and/or Hashimoto. Each of Ito and Hashimoto disclose a polymer latex containing a styrene/butadiene/hydroxyethylmethacrylate/divinylbenzene polymer. The monomer composition of the polymer is disclosed and contains 67 wt.% styrene; 30 wt.% butadiene; 2.5 wt.% hydroxyethyl methacrylate; and 0.5% wt.% divinylbenzene. Amended independent Claim 1 requires the presence of repeating units of a conjugated diene unit in an amount of 40% by weight or greater. Because the polymers of Ito and Hashimoto contain only 30% by weight of the butadiene, the prior art polymers do not anticipate the subject matter of independent Claim 1. Further, the present independent claims require the presence of an aromatic vinyl unit in an amount of 50% or less by weight. The polymers of Hashimoto and Ito contain styrene in an amount of 67% by weight which is greater than the maximum 50% by weight of an aromatic vinyl unit allowed by the present independent claims.

Because the Hashimoto and Ito references nowhere disclose or suggest a crosslinked rubber particle meeting the limitations of present independent Claim 1, the prior art references cannot anticipate or render obvious the presently claimed subject matter. Applicants respectfully request the withdrawal of the rejections and the passage of all now-pending claims to issue.

Applicants submitted an Information Disclosure Statement (IDS) upon filing of the present application on January 23, 2004. The PTO-1449 submitted with the IDS provided eight foreign patent documents and twelve U.S. patent documents. A signed, dated and initialed copy of the IDS submitted on January 23, 2004 has not been returned to Applicants' U.S. representative. Applicants request the Office provide a signed, dated and initialed copy of the PTO-1449 of January 23, 2004 acknowledging the consideration of the references provided thereon in the examination of the above-identified application.

Applicants note that the preliminary amendment filed on January 23, 2004 included an amendment to the specification providing a cross-reference to the parent application.

Further, the ADS submitted on January 23, 2004 provides the continuity data.

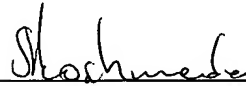
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)



Stefan U. Koschmieder, Ph.D.
Registration No. 50,238

NFO:SUK\la